

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY JULY 3, 2007

SENATE BILL

No. 315

Introduced by Senator ~~Cogdill~~ Harman

February 16, 2007

~~An act to amend Section 114381 of, and to add Section 114382 to, the Health and Safety Code, relating to food facilities. An act to add Section 190.65 to the Penal Code, relating to criminal procedure.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 315, as amended, ~~Cogdill~~ Harman. ~~Food facilities: permit fees. Criminal procedure: appeals: capital cases.~~

Existing law provides procedures for the expeditious imposition of capital sentences.

This bill would require the expeditious handling of appeals in capital cases. In order to expedite appeals in capital cases, this bill would require appellate counsel to be appointed for the defendant within one year of the specified date and for the record on appeal to be certified and transmitted to the Supreme Court within one year after appellate counsel is appointed. This bill would also require the appellant's Opening Brief to be filed within one year after the record is transmitted to the Supreme Court, and require attorneys who accept appointments before district courts of appeal to be available for appointment by the Supreme Court on capital cases.

~~The California Uniform Retail Food Facilities Law (CURFFL) provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing CURFFL.~~

~~CURFFL requires each food facility to have a valid permit to be open for business and requires any fee for the permit to be determined by the local governing body.~~

~~This bill would provide that a school district that operates a food facility pursuant to a permit may be required to pay a specified permit fee only after an inspection of that facility. By imposing additional duties upon local officials, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 190.65 is added to the Penal Code, to*
- 2 *read:*
- 3 *190.65. (a) The Legislature declares that appeals in all capital*
- 4 *cases should be decided expeditiously.*
- 5 *(b) Therefore, in all cases in which a sentence of death has been*
- 6 *imposed on or after July 1, 2009, counsel for the defendant on*
- 7 *appeal shall be appointed within one year of the pronouncement*
- 8 *of judgment. In those cases in which a sentence of death was*
- 9 *pronounced prior to July 1, 2009, and no counsel has been*
- 10 *appointed for the defendant, an attorney shall be appointed within*
- 11 *one year of the effective date of this section.*
- 12 *(c) The record on appeal shall be certified and transmitted to*
- 13 *the Supreme Court within one year after the appointment of counsel*
- 14 *for the defendant.*
- 15 *(d) The appellant's Opening Brief on appeal shall be filed within*
- 16 *one year after the record is certified and transmitted to the*
- 17 *Supreme Court.*
- 18 *(e) Any attorney who accepts appointments to represent indigent*
- 19 *appellants before any District Court of Appeal shall be available*

1 *to be appointed as appellate counsel before the Supreme Court in*
2 *capital cases.*

3 ~~SECTION 1. Section 114381 of the Health and Safety Code~~
4 ~~is amended to read:~~

5 ~~114381. (a) A food facility shall not be open for business~~
6 ~~without a valid permit.~~

7 ~~(b) A permit shall be issued by the enforcement agency when~~
8 ~~investigation has determined that the proposed facility and its~~
9 ~~method of operation meets the specifications of the approved plans~~
10 ~~or conforms to the requirements of this part.~~

11 ~~(c) A permit, once issued, is nontransferable. A permit shall be~~
12 ~~valid only for the person, location, type of food sales, or~~
13 ~~distribution activity and, unless suspended or revoked for cause,~~
14 ~~for the time period indicated.~~

15 ~~(d) A permit shall be posted in a conspicuous place in the food~~
16 ~~facility or in the office of a vending machine business.~~

17 ~~SEC. 2. Section 114382 is added to the Health and Safety Code,~~
18 ~~to read:~~

19 ~~114382. (a) Any fee for the permit specified in Section 114381~~
20 ~~or related services, including, but not limited to, the expenses of~~
21 ~~inspecting and impounding any utensil suspected of releasing lead~~
22 ~~or cadmium in violation of Section 108860 as authorized by Section~~
23 ~~114393, review of HACCP plans, and alternative means of~~
24 ~~compliance shall be determined by the local governing body. Fees~~
25 ~~shall be sufficient to cover the actual expenses of administering~~
26 ~~and enforcing this part.~~

27 ~~(b) Notwithstanding Section 6103 of the Government Code, a~~
28 ~~school district that operates a food facility subject to the permit~~
29 ~~requirement of Section 114381 may be required to pay the permit~~
30 ~~fee only after an inspection of the food facility. Notwithstanding~~
31 ~~subdivision (a), the amount of this permit fee shall not exceed the~~
32 ~~actual costs of performing the inspection of the food facility or~~
33 ~~five hundred dollars (\$500), whichever amount is less. To the~~
34 ~~extent authorized by Chapter 13 (commencing with Section 1758)~~
35 ~~and Chapter 13A (commencing with Section 1771) of Title 42 of~~
36 ~~the United States Code, the permit fee paid by a school district~~
37 ~~may be paid with federal school lunch and breakfast program~~
38 ~~funds.~~

39 ~~(c) Any person requesting the enforcement agency to undertake~~
40 ~~activity pursuant to Sections 114149.1 and 114419.3 shall pay the~~

1 enforcement agency's costs incurred in undertaking the activity.
2 The enforcement agency's services shall be assessed at the current
3 hourly cost recovery rate.
4 SEC. 3. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.